

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

Firefly Digital, Inc.

Civil Action 10-133

versus

Judge Tucker L. Melançon

Google, Inc.

Magistrate Judge Patrick J. Hanna

MEMORANDUM ORDER

Before the Court is plaintiff's, Firefly Digital, Inc., July 21, 2011 Appeal of the Magistrate Judge's Order Denying Motion to Exclude [Rec. Doc. 88] and defendant's, Google, Inc., August 15, 2011 Memorandum in Opposition thereto [Rec. Doc. 93].

Plaintiff appeals the Magistrate Judge's July 7, 2011 Memorandum Ruling and Order [Rec. Doc. 87] denying plaintiff's April 12, 2011 Motion to Exclude [Rec. Doc. 56], which sought to exclude the testimony and report of defendant's expert, Dr. Robert Peterson.

Rule 72(a) of the Federal Rules of Civil Procedure governs the review of Magistrate Judge orders by district court judges. Rule 72(a) provides that:

“A party may serve and file objections to [a magistrate judge's] order within 14 days after being served with a copy. A party may not assign as error a defect in the order not timely objected to. The district judge in the case must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.”


Fed.R.Civ.P. 72(a).

In applying this “clearly erroneous or contrary to law” standard, a district court shall affirm the decision of the magistrate judge unless, based on all of the evidence, the court is left with a definite and firm conviction that the magistrate judge made a mistake. *Uviedo v. Steves Sash & Door Co.*, 738 F.2d 1425 (5th Cir. 1984) (citing *United States v. United States Gypsum Co.*, 333 U.S. 364 (1948)).

Upon reviewing the Magistrate Judge's July 7, 2011 Memorandum Ruling and Order [Rec. Doc. 87] and the record before the Court, the Court concludes that the Magistrate Judge applied the appropriate legal standards to the issues raised and did not make any clear error in his ruling and order. Accordingly,

IT IS ORDERED that the Magistrate Judge's Memorandum Ruling and Order is **AFFIRMED** and plaintiff's, Firefly Digital, Inc., July 21, 2011 Appeal of Magistrate Judge's Order Denying Motion to Exclude [Rec. Doc. 88] is hereby **DENIED**.

Thus done and signed this 24th day of August, 2011 at Lafayette, Louisiana.



Tucker L. Melançon
UNITED STATES DISTRICT JUDGE